

On Compliance and Economic Law

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Abstract: Compliance, as a prominent topic in contemporary legal theory and practice, exhibits distinct attributes of economic law and serves as a critical means of its realization. Compared with other branches of law, economic law plays an irreplaceable role in the macro-level construction of compliance systems, providing a foundational framework for compliance mechanisms across industries. To safeguard the interests of domestic enterprises in cross-border compliance matters, it is imperative to simultaneously advance the development of relevant foreign economic laws. Given China's significant weight in the global economy, it must assume the responsibilities of a major power. On the one hand, China should leverage international economic law to secure a proactive role in rule-making and actively participate in the formulation of international compliance norms. On the other hand, it should use the inclusive development of the global economy as a benchmark to promote the construction of compliance systems within the paradigm of China–World Economic Law.

Keywords: Compliance, economic law, foreign economic law, international economic law, world economic law.

1. Introduction to the Problem

Compliance originates from the need for regulation and management. From the perspective of management science, governance operates on two levels: first, public regulation exercised by the government in the interest of public welfare; and second, internal governance and management conducted by organizations themselves. Initially, compliance was conceptualized as a term in business management rather than a traditional legal concept. However, with the development of the socio-economic landscape and the continuous expansion of markets, corporate self-regulated compliance management lacked both uniformity and enforceability. This resulted in market disorder and infringements on public interests. Consequently, the state intervened, gradually extending its regulatory authority into corporate governance. Against this backdrop, compliance transcended its managerial framework and entered the legal domain, acquiring legal significance alongside its managerial dimensions. According to Article 3 of the *Measures for the Compliance Management of Central Enterprise*, issued by the State-owned Assets Supervision and Administration Commission of the State Council and effective from October 1, 2022, “Compliance, as defined in these measures, refers to corporate operational and managerial conduct, as well as employee performance of duties, in accordance with national laws and regulations, regulatory requirements, industry standards, international treaties and rules, as well as corporate charters and internal policies[1].” Essentially, compliance embodies a behavioral model or a strategic framework that ensures alignment with, or at least non-violation of, established legal and regulatory frameworks. From a static perspective, compliance encompasses adherence to traditional branches of law such as corporate law, criminal law, and administrative law, as well as regulatory policies, industry rules, and internal corporate governance frameworks, thereby forming two dimensions of compliance obligations. From a dynamic perspective, the compliance process is structured through two parallel regulatory mechanisms: first, voluntary internal supervision and management within industries and enterprises; and second, mandatory oversight imposed by the state from an

external regulatory standpoint.

The academic research on compliance, in light of its origins and evolutionary development, has primarily focused on management science and law. Within the field of domestic legal studies, research has predominantly centered on disciplinary studies, with a particular emphasis on criminal law compliance. In contrast, research within the field of economic law mainly starts from industry-specific perspectives, analyzing the current state of compliance in sectors such as banking and securities, as well as examining the current single-line compliance regulation within these industries.

From the perspective of economic law, and in light of the development of both domestic and international economies, how should the relationship between compliance and economic law be defined? In order to maintain the sound operation and development of Chinese enterprises abroad, how should economic law under foreign-related compliance be adjusted? What role do International Economic Law and even World Economic Law play in this context? How should the advancement of domestic economic law respond to these challenges? This paper analyzes the relationship between compliance and economic law, starting from current compliance practices and considering the definition and disciplinary attributes of economic law. Additionally, given China's significant position in the global economy, this paper examines economic law issues from the international and global perspectives, scientifically and systematically constructing the theoretical foundation of compliance in economic law in China. It also seeks to explore the coordinated development of domestic economic law and foreign-related economic law with respect to the rule of law in compliance, while fostering discussions on universal compliance rules in economic law within the China-World paradigm.

2. An Analysis of the Relationship Between Compliance and Economic Law

2.1. The Origins of Compliance and Its Development in China

Compliance, referred to as "Compliance" in English, is defined in West's Encyclopedia of American Law as observance, conformity, and obedience [2]. Rooted in the regulatory frameworks of developed countries, compliance management systems have evolved into relatively mature legal compliance frameworks abroad. Over the past few decades, compliance has continuously developed on the international stage, functioning as an essential organizational activity that ensures both individuals working within or on behalf of an organization, as well as the organization itself, adhere to applicable laws, regulations, and internal rules [3]. In 1961, American socio-economist Amitai Etzioni proposed the "Compliance Theory" [4]. At the turn of the 19th and 20th centuries, compliance emerged in legal discourse as an institutional model for state intervention in the market economy. Subsequently, with the development of social and economic law and the evolution of social conflicts, the connotation, extension, and focal points of compliance management have exhibited distinct characteristics across different historical periods. At the end of the 19th century, issues such as unfair competition, industry monopolies, and market disorder prompted the United States to enact industry-specific laws and regulations to influence corporate operations, thereby achieving the objective of government-imposed regulatory control. After a brief respite, during the Great Depression of the 1930s, the United States prioritized financial and sectoral compliance, with a particular focus on the securities industry. Between the 1970s and 1980s, the U.S. government mandated corporate self-regulation, which, however, led to a series of financial scandals [5]. These scandals exposed both the profit-driven nature of corporations and the inefficacy of self-regulation. In response, over the past few decades, the U.S. government has sought to strengthen criminal incentives for compliance. This approach, building upon traditional regulatory enforcement and self-regulation, aims to enhance corporate compliance proactivity. Companies have since utilized compliance programs as evidence to demonstrate the unintentional nature of violations, thereby seeking to mitigate or evade criminal liability. Throughout the long process of compliance system reform, the U.S. government has promoted corporate compliance through three coexisting and complementary mechanisms: state regulation, mandatory self-regulation, and criminal incentives [6].

In contrast, in China, the term "compliance" first appeared in a regulatory document issued by the Ministry of Civil Affairs on November 20, 1989, titled *Notice on Printing and Distributing the Interim Regulations on Auditing Work of the Ministry of Civil Affairs, the Auditing Regulations on Violations of Financial and Economic Discipline, and the Compliance Standards for Financial and Accounting Work of the Ministry of Civil Affairs Units*. However, during this period, the concept of compliance was not explicitly defined and was generally regarded as synonymous with "legality". In 2003, the financial sector, represented by the insurance industry, officially began implementing compliance systems. Following the publication of the first international standard

for compliance management, ISO 19600 *Compliance Management Systems—Guidelines*, by the International Organization for Standardization (ISO) in 2014, China adopted and officially released an equivalent national standard in 2017, *Compliance Management Systems—Guidelines* (GB/T 35770-2017). Subsequently, in response to the revision of the international standard in 2021, China updated and optimized its national standard in 2022 to *Compliance Management Systems—Requirements and Guidelines for Use* (GB/T 35770-2022), aligning it with the practical needs of Chinese enterprises. The year 2018 marked a peak in China's compliance development, with a surge in the publication of compliance-related regulatory documents, leading to its designation as China's "Year of Compliance". In 2021, the Supreme People's Procuratorate, in collaboration with multiple departments, formulated the *Guiding Opinions on Establishing a Third-Party Supervision and Evaluation Mechanism for Corporate Compliance in Criminal Cases (Trial)* and its implementation rules. In 2022, the Supreme People's Procuratorate further spearheaded the development of the *Measures for the Construction, Evaluation, and Review of Corporate Compliance in Criminal Cases (Trial)*, establishing a new framework for third-party supervision and evaluation mechanisms in corporate compliance for enterprises involved in legal proceedings. Amid the global compliance wave and the concerted efforts of multiple stakeholders, the construction of compliance management mechanisms has emerged as a cutting-edge issue in both practical and academic research.

The framework of a compliance management system, from an internal organizational perspective, can be categorized into three hierarchical levels based on its scope of application and binding force. The first level comprises foundational policies, which serve as the basis for compliance policies and guidelines. These policies establish the fundamental principles of compliance that every employee must adhere to, forming the most essential and fundamental compliance regulations within an organization. The second level consists of regulatory policies, which outline specific compliance requirements and standards tailored to particular themes or areas of compliance risk. These policies provide concrete guidance for managing compliance risks in the organization's daily operations. The third level includes advisory guidelines, which complement and enhance the first two levels by offering references and tools to assist organizational members in assessing specific compliance issues. Regardless of the hierarchical level, compliance regulations are ultimately embedded in the internal and external environment of the enterprise and its organizational structure, reflecting both a corporate governance model and an organizational framework. On one hand, from the perspective of corporate responsibility, the collaboration between the state and corporations represents an external manifestation of cooperative regulation theory in the realm of crime governance, holding legitimacy within criminal law theory [7]. On the other hand, considering the internal departmental structure of corporations, particularly the compliance responsibilities of the board of directors, it is advisable to integrate compliance principles into corporate law. Establishing the value of compliance explicitly within China's Company Law could help define the compliance obligations of boards of directors [8].

The advancement of the rule of law in compliance systems encompasses the entire process of legislation, law

enforcement, judiciary, and compliance. In the current body of sectoral codes, there are no explicit legal provisions that are specifically aligned with compliance. The principles, corporate legal person system, and certain provisions in property rights contracts within the Civil Code do have some relevance to compliance, but they merely represent a partial embodiment of compliance's broader connotation. From the perspective of criminal law, one of the key objectives of the compliance system is the proactive prevention of corporate crimes or the timely rectification of such crimes after they occur [9]. Currently, there is a lack of theoretical development in criminal compliance in China, and the existing regulatory provisions are insufficient. As a result, it is difficult to integrate criminal compliance into the existing criminal law framework [10]. Some scholars have suggested improving legislation and introducing special compliance procedures within the criminal law domain. At the same time, in order to prevent crimes, administrative compliance should be considered a prerequisite for criminal compliance. However, there is still no effective conclusion on how administrative compliance can be incorporated into the realm of administrative supervision. A typical form of a company is the separation of ownership and management rights, which objectively leads to inherent checks and conflicts in compliance management. From the origins and development of compliance management, to the formation and application of local and international standards, the most effective way to overcome compliance inertia and promote the optimization and improvement of compliance management is to obtain judicial recognition of compliance results (including processes) from courts, procuratorates, and other judicial bodies. Government regulation, laws and regulations, and judicial rulings, when implemented in parallel, can help companies clearly understand their compliance responsibilities and promote self-regulated compliance [11].

2.2. The Importance of Economic Law to the Compliance System

In the process of opposing, blending, and intersecting with the traditional public and private law of capitalist society, economic law transcends the boundaries of the public-private law dichotomy. It has continuously formed and developed, ultimately establishing itself as a distinct area within social law [12]. Specifically, in a highly socialized environment, when conflicts that are difficult to regulate arise within society, the state, as an impartial representative of public interest, intervenes in the market. This intervention may take the form of coordinated regulation or direct market participation. It can be said that the emergence of economic law is a product of the high degree of socialization that leads to the integration of public and private sectors [13]. In contrast, compliance initially emerged as a theoretical concept within the socio-economic sphere. Due to the disorderly expansion of the market and the imbalance in the orderly functioning of the economy, it prompted the state to intervene in market operations through compliance regulation mechanisms, either via mandatory oversight or by incentivizing companies to self-regulate. This approach aims to reduce corporate non-compliance and ensure the smooth operation of businesses. Consequently, compliance and economic law exhibit a high degree of consistency in terms of the entities involved, conceptual scope, and operational values. Economic law, from the macro perspective of the state, provides an overarching framework for the country's economic

development, while compliance represents an adjustment process between regulatory bodies and business entities within the economic market. It can be said that compliance is the practical outcome of economic law in specific market economic activities. Compliance, with its frontier nature and interdisciplinary characteristics, inevitably brings about research complexity. We generally categorize compliance into two major types: general compliance and specialized compliance, the latter of which includes areas such as antitrust, unfair competition, and intellectual property. In China, the early focus of compliance was on specific industries and scenarios, relying on industry-specific regulations to establish a singular regulatory approach to compliance systems. However, with the reform and opening-up, industries no longer develop in a linear, singular fashion, but rather exhibit a multi-pronged advancement. As time has progressed, digitalization has triggered a disruptive reform wave across all industries. With the support of technology, barriers between industries have been broken down. In such a societal context, traditional, singular governance methods are insufficient to address the complex and intertwined social relations. Taking the enactment of the Financial Stability Law as an example: prior to its introduction, China adopted a sectoral management approach, with banking, securities, and insurance each conducting self-regulation within their respective industries. The introduction of the Financial Stability Law started from top-level design, integrating the legal concept of financial system stability into various financial activities. It systematically addressed the issues of cross-industry and cross-departmental financial regulation, providing a warning framework for the financial industry [14]. The construction of a compliance system also requires a commanding law to oversee the "comprehensive compliance" across industries, facilitating cross-industry and cross-departmental regulatory management. This law is economic law.

From the perspective of economic law, the following chapter will analyze the economic law issues of compliance from four dimensions: domestic economic law, foreign-related economic law, international economic law, and world economic law, and will provide suggestions for the realization of compliance through economic law.

3. Economic Legal Framework of Compliance

3.1. The Macroeconomic and Safeguarding Nature of Legalization in Compliance

Firstly, in areas where the state invests or participates in management, compliance naturally enters the realm of public law. Compliance within the public law domain must be regulated through strict national legislation. For example, state-owned enterprises, as traditional state investment projects, require compliance to be regulated by national laws. This is because public authorities, as the superior players in the market, must confine their power within legal boundaries to ensure that market participants are in a fair position during transactions, thereby safeguarding a market-driven economy. This intervention of state power in the market through hard laws certainly falls within the scope of economic law.

On the other hand, in cases where the state does not directly participate in investment or management, there are two solutions to maintain market stability and order. First, the

state may intervene directly in the establishment of internal mechanisms within enterprises, transforming external regulation into a mandatory requirement for self-regulation by enterprises. This ensures the sound operation and development of enterprises, with the state intervening from a macro perspective to address the risk of non-compliance in the market economy. This falls within the domain of domestic economic law regulation. Second, when the state does not directly intervene, industry associations may step in. Industry associations represent the interests and rights of the industry, and, based on the specific conditions of the industry, ensure compliance with relevant laws, regulations, and policies while setting industry-specific, social, and public welfare compliance standards. In purely internal corporate management regulations or industry standards set by industry associations, public power does not directly participate in compliance. On the surface, these purely private law domains do not seem to fall under economic law. However, domestic public policies, informal rules, professional standards, and transaction practices, though not legislated by state organs, can effectively regulate specific economic behaviors. This is referred to as “economic soft law”[15].

In conclusion, regarding the rule of law in domestic compliance systems, both the state-based legislative models and their application pathways under hard law, as well as the non-state legislative models and their application pathways under soft law, are inextricably linked to economic law.

As one of the seven major branches of law in China, economic law possesses both public and private law characteristics. Compared to other branches of law, the role of enterprises from the perspective of economic law is more comprehensive. On one hand, it refers to enterprises as the micro-foundation of the national economy and the fundamental entities of market activities; on the other hand, it highlights their dual identity, being both protected and regulated in their interactions with the government [16]. It is undeniable that other branches of law, such as criminal law and civil law, can provide clearer and more specific regulations in the practical implementation of compliance. However, considering the diversity and complexity of China’s current economic market, the macro-structural role of economic law in the development of compliance systems is irreplaceable by other branches of law. Economic law plays a foundational role in ensuring compliance and rule of law across all industries.

3.2. Promoting the Construction of Compliance Systems for Foreign-Related Economic Law

As early as October 2014, the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China, in its Decision on Several Major Issues Concerning the Comprehensive Promotion of the Rule of Law, explicitly proposed the strengthening of “foreign-related legal work” to ensure the realization of the “construction of the socialist rule of law system with Chinese characteristics”. Subsequently, in October 2019, the Fourth Plenary Session of the 19th Central Committee emphasized the need to “strengthen foreign-related rule of law work”, highlighting the advancement of the rule of law in foreign-related matters. In November 2020, the Central Comprehensive Rule of Law Conference further proposed the necessity of coordinating the promotion of both domestic and foreign-related rule of law, enriching the

connotations of economic law, and providing guidance for the construction of the current legal system in China.

In traditional academic perspectives, the rule of law can be divided into domestic rule of law and international rule of law [17]. Domestic rule of law is manifested when a country’s legislative body formulates legal norms according to statutory procedures and governs internal affairs based on domestic legal norms. International rule of law, on the other hand, is reflected in the global community’s maintenance of international order under the principles of rule of law and international regulations. Specifically, in terms of legal frameworks, domestic rule of law and international rule of law constitute the domestic laws and international laws of each country, respectively. It can be said that the two represent two relatively independent governance systems. The concept of foreign-related rule of law has bridged the gap between domestic and international rule of law, breaking down the barriers of the traditional governance models that operate separately.

Returning to the field of compliance, a large number of Chinese enterprises are either going abroad to list or engaging in close trade relations with foreign countries. With the frequent exchanges between China and other countries or international organizations, issues related to cross-border compliance have emerged. These issues involve the differences in compliance mechanisms between countries. Domestic legal systems cannot resolve cross-border compliance problems, and directly applying international law may not effectively safeguard the legitimate rights and interests of domestic enterprises. While there is overlap between foreign-related economic law and international economic law, they are not equivalent. International economic law is a body of cross-border law that regulates the economic relations between states, international organizations, multinational corporations, and individual citizens. Its aim is to adjust economic relations from the perspective of the international community by providing general normative principles. In contrast, foreign-related economic law refers to legal norms established by individual countries based on their own social, economic, political, and legal conditions, which regulate the specific foreign economic relations arising from the economic and trade exchanges between domestic entities and foreign economic and trade actors [18]. Its purpose is to extend the effectiveness of China’s legal jurisdiction beyond its borders while also limiting and counteracting the application of foreign and international laws within China, thereby protecting the interests of Chinese economic entities.

The globalization of compliance is inevitable. Therefore, as cross-border compliance faces frequent obstacles, and as Chinese economic entities are subjected to the impacts of unilateralism, protectionism, and other forms of anti-globalization, the advancement of foreign-related compliance system construction plays a crucial role in the survival and development of Chinese economic entities in the international arena.

3.3. Promoting the Recognition of China’s Compliance System through the Expansion of International Economic Law

At the international level, Chinese enterprises face a disadvantaged position in cross-border transactions. The number of Chinese companies on the World Bank’s blacklist remains high, and instances of economic sanctions are not

uncommon. For example, the recent global focus on environmental protection and carbon emissions has led the European Union to introduce the “carbon border tax” plan, presenting a compliance challenge for Chinese enterprises engaged in international trade. In the context of economic globalization and market globalization, the healthy development of enterprises inevitably involves cross-border commerce, with the actors involved including foreign communities, citizens, businesses, states, and international organizations. Under globalization, political and economic upheavals are inevitable. While the sovereignty of states remains unchanged within the process of global governance, states remain the primary actors in global governance. However, effective global governance requires coordination and interaction between state and non-state actors at various levels, forming a networked and multi-level governance structure through alternating and collaborative efforts across these levels [19].

Chinese enterprises are increasingly attracting international attention. How Chinese companies can effectively manage compliance in their overseas operations, integrate into the international community, and coexist harmoniously with various stakeholders are critical challenges that need to be addressed. At the international level, organizations such as the United Nations, the Organization for Economic Co-operation and Development (OECD), the World Bank Group, and the African Development Bank Group, as leading entities, have collaboratively developed global model compliance agreements, guidelines, and other regulations. These efforts have established a punitive mechanism for the strict sanctioning of non-compliant behaviors in international trade. Additionally, the International Organization for Standardization (ISO) has released the “*Compliance Management Systems Guidelines*” (ISO 19600:2014) and the “*Compliance Management Systems Requirements and Guidelines for Use*” (ISO 37301:2021) as internationally recommended and certifiable standards for compliance.

China has a long-standing tradition of compliance culture, yet the modern development of corporate compliance management began relatively late. The progress of compliance management lags far behind that of other developed countries, and the compliance system remains incomplete. The complexity of international markets, compounded by political maneuvering between nations, has led to frequent trade risks for Chinese enterprises in the process of international trade. Relying solely on China’s current domestic economic laws and foreign-related economic laws is insufficient to gain adequate international recognition. It is essential to establish a robust domestic compliance system and, on this foundation, leverage international economic law. Active participation in the formulation of widely accepted international rules and compliance standards is crucial to securing a proactive role and voice in international compliance development, preventing Chinese enterprises from being marginalized and disadvantaged in the global compliance landscape.

3.4. Advancing the Exploration of Universal Compliance Rules under the China–World Economic Law Paradigm

The 20th National Congress of the Communist Party of China emphasized China’s commitment to its fundamental national policy of opening up, firmly adhering to a win-win strategy of openness, upholding the correct direction of

economic globalization, and enhancing the synergetic effects of domestic and international markets and resources. Through its new phase of development, China aims to create new opportunities for the world and contribute to the establishment of an open global economy. Naturally, the advancement of international law and domestic foreign-related economic law can, to some extent, address the challenges posed by differences in compliance systems.

While legal frameworks vary across nations, compliance management has achieved internationalization through the establishment of unified, certifiable compliance management system standards. This harmonization is rooted in the shared legal spirit underlying diverse legal systems. In 2017, the concept of “a Community with a Shared Future for Mankind” was incorporated into United Nations Security Council Resolution 2344, reflecting the increasing interconnectivity among nations. As regional homogenization deepens, the world is evolving into an integrated global marketplace characterized by active international trade and frequent cross-border corporate interactions. The concept of “a Community with a Shared Future for Mankind” extends beyond intergovernmental exchanges; it also provides normative guidance for legal development, fostering a trend toward legal convergence. This convergence, however, does not imply uniformity; rather, it acknowledges national specificities while promoting a harmonized legal framework. From the perspective of economic law, it is neither feasible nor necessary to unify international economic law and foreign-related economic law into a single legal discipline. However, it is possible to explore the establishment of universal compliance rules and to conduct holistic, cosmopolitan, and integrative research within the broader framework of “World Economic Law” [20].

The concept of World Economic Law is to establish a global economic legal system that facilitates inclusive development in the world economy, with the objective of achieving inclusive rule of law in global economic governance. When China explores the formulation of universal compliance rules, it should critically reconstruct the existing world economic order, preserving the achievements made thus far, while also shouldering the responsibilities expected of a major power. From a global perspective, China should strive for innovative breakthroughs in models and promote the construction of a compliance system under the China–World Economic Law paradigm.

4. Conclusion

This paper explored the relationship between compliance and economic law, analyzing the evolution of compliance from a management concept to a legal practice. We emphasized the significance of compliance within both domestic and international economic law systems, particularly when Chinese enterprises face challenges in the global market. As a practical tool of law and regulation, compliance management plays a crucial role in ensuring the legality of business operations and maintaining market order. Furthermore, the construction of a compliance system relies not only on government-imposed regulatory oversight but also on self-regulation by enterprises and industry standards, reflecting the key role of economic law in promoting a healthy market environment. Although progress has been made in the area of compliance management in China, especially in sectors such as finance and law, there are still multiple

challenges. Firstly, the fragmented nature of domestic compliance systems requires urgent resolution, particularly due to the lack of coordination between different legal sectors and the inconsistencies in international compliance standards. Additionally, as the global economy becomes more integrated, disparities in legal and regulatory environments between countries create significant compliance pressures for Chinese enterprises, particularly in global issues such as market access, environmental protection, and carbon emissions, where the gap between domestic and international compliance systems is especially prominent. Looking ahead, to further develop China's compliance management system, it is essential to strengthen domestic regulations while actively participating in the formulation of international compliance standards, thereby enhancing China's influence in global economic governance. Especially in the context of the digital age and intensifying global market competition, establishing a more coordinated compliance framework is urgently needed. By constructing universally applicable compliance rules that align with international standards, China can not only strengthen its voice in international trade but also promote the inclusive development of global economic law, advancing China's strategic positioning and responsibility within the global economic law paradigm.

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